

IN THE CLAIMS

No changes.

REMARKS

Claims 1-3, 6, 13 are pending in this application. Claims 4, 9-11, 14, and 15 have been withdrawn from consideration by the Examiner.

The Examiner has stated that claims 5, 7-8, and 12 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

35 U.S.C. §102

Claims 1-3, 6, 13 were rejected under 35 U.S.C. §102(b) as being anticipated by Mozes *et al.* The Examiner asserts that "[t]he claims are drawn hydrophobic peptide and therapeutic composition thereof which the below peptide are within the scope of the present claims." The Examiner further asserts that "[t]he reference teach the peptide LLVIVELIPSTSSAV that read on the claimed peptide of claim 1 (see page 11, line 30-37). Note that peptide of the reference have at least 50% hydrophobic amino acid, and the B variable corresponds to a glutamic acid, as claimed in claim 3 and 6 of the instant application. The reference further teaches pharmaceutical composition for the treatment of myasthenia gravis (see page 11, lines 30-37). It is well known in the art myasthenia gravis is a disorder in which T-cells are involved. Thus, the reference anticipates the claimed invention."

The Examiner states that the language of "T-cell antigen receptor (TCR) function" is an intended use limitation and intended use or field of use. However, intended use limitation and intended use or field of use for the invention generally will not limit the scope of a claim. Moreover, where the claimed and prior art products are identical or substantially identical in

structure or composition, a prima facie case of either anticipation or obviousness has been established. In re Best, 195 U.S.P.Q. 430, 433 (CCPA 1977). "When the PTO shows a sound basis for believing that the products of the applicant and the prior art are the same, the applicant has the burden of showing that they are not." In re Spada, 15 U.S.P.Q. 2d 1655, 1658 (Fed. Cir. 1990). Therefore, the prima facie case can be rebutted by evidence showing that the prior art products did not necessarily possess the characteristics of the claimed product. In re Best, *supra*.

Applicant respectfully traverses the rejection. Not only is the present invention directed to peptides that inhibit T-cell antigen receptor (TCR) function by interfering with the assembly of this receptor, but the Examiner appears to have neglected to take into account the previous amendment to claim 1 which amends the length of X to be between 2 and 6 amino acids.

In contrast, in addition to arguments set forth in the previous Office Action Response, the Mozes *et al.* peptide LLVIVELIPSTSSAV contains more than 6 amino acids in what would correspond to the X portion of the peptide.

| | | | |
|---------------------|---|----------------------|---|
| Mozes <i>et al.</i> | LLVIV=5 amino acids | E | LIPSTSSAV= <u>9</u> amino acids |
| Current Application | X=hydrophobic amino acid or hydrophobic peptide sequence comprising between 2 and 6 amino acids | Z=charged amino acid | X=hydrophobic amino acid or hydrophobic peptide sequence comprising between 2 and 6 amino acids |

Therefore, the Mozes *et al.* peptide **cannot** anticipate the current claim 1.

This rejection should now be overcome. Claims 3, 6, 13 are dependent on claim 1, thus these rejections should be overcome as well.

Attached hereto is a marked-up version of the changes made to the specification and claims. The attached page is captioned "VERSION WITH MARKINGS TO SHOW CHANGES MADE."

Pursuant to the above amendments and remarks, reconsideration and allowance of the pending application is believed to be warranted. The Examiner is invited and encouraged to directly contact the undersigned if such contact may enhance the efficient prosecution of this application to issue.

It is believed that no additional fees are necessary at this time. This amount is believed to be correct; however, the Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,
Needle & Rosenberg, P.C.

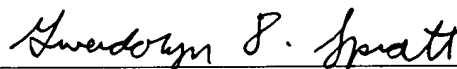


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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: BOX AF, Commissioner for Patents, Washington, D.C. 20231, on the date listed below.


Gwendolyn D. Spratt

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Date

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IN THE SPECIFICATION

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